

1
2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 IN RE: PHENYLPROPANOLAMINE
7 (PPA) PRODUCTS LIABILITY
8 LITIGATION,

MDL NO. 1407

ORDER DENYING STATE-COURT
PLAINTIFFS' REQUEST FOR
INJUNCTION

9
10 This document relates to all
11 actions.
12

13 The court has reviewed the correspondence of the parties to
14 the state phenylpropanolamine ("PPA") cases *Moore v. Kroger*
15 *Texas, L.P. and Wyeth Corporation*, pending in Texas, and *McGuire*
16 *v. Wyeth*, pending in Ohio. Plaintiffs' counsel in these cases
17 have approached this court, seeking an injunction to prevent
18 defendant Wyeth from taking certain expert witness depositions
19 that plaintiffs represent would be duplicative of depositions
20 already taken in this federal multi-district litigation ("MDL")
21 1407.

22 The court finds that there is little question that defendant
23 Wyeth is violating the court's order prohibiting the taking of
24 duplicative depositions, and at the very least defeating the
25 intent of the MDL to streamline discovery in these PPA cases.
26 The court also acknowledges that Wyeth, a party-defendant in

1 myriad cases in MDL 1407, is subject to this court's jurisdic-
2 tion, and therefore would be held to an order issued in the MDL.

3 The court concludes, however, that enforcing its order
4 against Wyeth by enjoining the depositions at this time would
5 produce an indefensible inequity among the parties. This court's
6 jurisdiction over Moore, McGuire, and plaintiffs in other state-
7 court cases is questionable, leaving plaintiffs free to conduct
8 whatever discovery they choose, however duplicative of MDL
9 discovery, and apparently, according to defendants, that is
10 precisely what plaintiffs have done. Yet were defendants to seek
11 to limit plaintiffs' discovery efforts in accord with this
12 court's orders, the objections no doubt would be loud and vigor-
13 ous.

14 For state-case plaintiffs now to seek refuge in this federal
15 court, therefore, when the obligations would not be reciprocal,
16 is unsupportable.¹ Given these grave concerns of equity, the
17 court declines to issue an injunction.

18 DATED at Seattle, Washington this 8th day of July, 2004.
19

20 s/ Barbara Jacobs Rothstein
21 BARBARA JACOBS ROTHSTEIN
22 UNITED STATES DISTRICT JUDGE

23 _____
24 ¹While the court is concerned that denial of the injunction
25 request results in unreasonable and unnecessary costs to the
26 parties involved, this does not appear to be of concern to
counsel conducting discovery. Were plaintiffs to agree to be
bound by this court's order concerning duplicative discovery, the
court would welcome a request to reconsider this decision.